

## PART 42

### CONTRACT ADMINISTRATION

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##### SUBPART 42.2 - ASSIGNMENT OF CONTRACT ADMINISTRATION

##### 42.202 Assignment of contract administration.

(a)(90) When a contracting activity makes an award having a dollar value of \$25,000 or more to a small disadvantaged business (SDB), whether for the first time or for an item not previously purchased from the SDB, the award will be assigned for administration to the appropriate contract administration office (CAO). (See (d)(2)(92) below.)

(91) To implement the direction of the Secretary of Defense, December 6, 1995, and the Under Secretary of Defense (Acquisition and Technology), December 8, 1995, concerning single process/block changes, such changes to technical or management requirements in DoD contracts shall be accomplished as follows:

(1) When a contractor volunteers to participate in the single process initiative, the ACO shall organize a management council consisting of CAO, DCAA, key DoD customers (notionally defined as those representing 80% of the total dollar value of affected DoD contracts at the contractor's facility), and contractor personnel to perform an initial review of the adequacy and reasonableness of the contractor's single process concept with regard to that facility. Technical feasibility (including the impact on quality, maintenance, schedule, etc.), cost effectiveness, and program risk will be addressed during the council's preliminary review. A "rough order of magnitude" cost-benefit analysis will then be performed, sufficient to permit a determination whether the proposed changes can be approved, and contracts modified, on a no-cost, block change basis. The formal single process proposal shall be reviewed and approved by the management council prior to the issuance of block modifications to existing contracts by the ACO.

(2) When DLA has contracts at a contractor's facility where a single process proposal has been submitted by the contractor, the following procedure shall be followed:

(i) If an ICP has a sufficient dollar value of contracts to warrant its participation as a key customer in the management council established to review single process proposals at a contractor's facility, or if its participation in the management council is otherwise considered necessary and appropriate, the ACO shall request, and the ICP shall designate, in writing, an individual to serve as its representative on the management council. The representative shall be a senior member of the acquisition workforce. The ICP's management council representative shall be empowered to speak on behalf of the ICP's contracting officers having cognizance of affected contracts. He/she shall request assistance, as necessary, from technical and other subject matter experts whenever a concept paper or proposal is submitted.

(ii) Each ICP shall also designate, in writing, a senior member of its acquisition workforce as its team leader for single process initiative issues ("SPI team leader"). In the absence of ICP representation on the management council, the SPI team leader shall be responsible for reviewing and making recommendations on the acceptability of concept papers or proposals referred to the ICP by the ACO. (This will typically occur when there are contracts

with one or more DLA ICPs at the affected facility, but the Agency is not considered a "key customer," as defined above.) The SPI team leader shall be presumed to provide a coordinated delegation of authority for effecting block changes to the applicable DCMC component from cognizant contracting officers. Additionally, he/she may consult, as necessary, with appropriate technical and other subject matter experts prior to providing the ICP's concurrence with the proposed single process change. The SPI team leader shall be authorized to resolve disputes among that activity's contracting officers regarding concurrences/nonconcurrences with concept papers or proposals.

(iii) If an ICP has the largest total dollar value of, but not the only, DLA contracts with a contractor submitting a concept paper or proposal, its management council representative (or, if the ICP has no representation on the management council, its SPI team leader) will be considered the DLA component team leader with regard to the process proposal. He/she must brief, solicit recommendations from, and achieve consensus with the other affected ICPs' SPI team leaders on the acceptability of the single process concept and proposal. This individual shall then speak on behalf of the entire Agency. When consensus cannot be reached between and among the affected ICPs, disagreements shall be elevated by the DLA component team leader, and shall be resolved by MMP.

(iv) Notwithstanding that the single initiative/block change process is strongly supported at the highest levels of DoD, appointment of a DLA component team leader, ICP SPI team leader or ICP management council representative does not relieve the contracting officer of accountability for programs and contracts under his/her cognizance. Therefore, a contracting officer may appeal to MMP any single process proposal decision he/she considers antithetical to the Government's best interests, and, if necessary, may carry that appeal through MMP to the Defense Acquisition Executive or his/her designee.

(c)(90) Responsibility for negotiation and execution of modifications to definitize undefinitized BOA orders or unpriced purchase orders shall not be delegated by the contracting office when a ceiling unit price is 125 percent or more of the lowest price paid within the 12 months preceding the effective date of the undefinitized BOA order or unpriced purchase order.

(d) Transmittal and documentation.

(2)(90) When, in the contracting officer's judgment, a contract or order requires special attention by a field CAO that cannot be adequately conveyed by a criticality designator, this need will be communicated in writing by the contracting officer to the ACO. Drawing the attention of field CAOs to special contracting officer area(s) of concern should normally be accomplished during the assignment process, or as soon as possible thereafter. (See (2)(92) below.)

(2)(91) Contracting officers shall provide a complete purchase history to the CAO with the delegation of all unpriced orders for definitization.

(2)(92) The letter of delegation required by (a)(90) above will state that the award is the first to the SDB (or the first for the item being procured) and request that a postaward orientation conference be conducted in accordance with FAR Subpart 42.5, Postaward Orientation (see especially FAR 42.501(b)). The letter should highlight any specific areas the contracting officer believes should be covered in the conference. It should also indicate that a letter or other form of written communication can be utilized in lieu of a postaward conference, provided that a copy is furnished to the contracting officer, and the CAO has performed a recent postaward conference with the SDB.

#### 42.203 Retention of contract administration.

(a)(i)(90) DFSC may retain administration of contracts for coal or bulk petroleum.

#### 42.204 Supporting contract administration.

(a)(90) When contracts containing the Small Business, Small Disadvantaged Business and Women-owned Small Business Concerns Subcontracting Plan clauses are retained for contract administration by the contracting office, the contracting office shall request support from the cognizant CAO to administer the program imposed by these clauses. Section C of these contracts shall contain a statement substantially as follows: "The Small Business, Small Disadvantaged Business and Women-owned Small Business Concerns Subcontracting Plan clauses in this contract will be administered by the cognizant Contract Administration Office." (Note: Assignment for supporting administration will be made to the cognizant CAO of the geographical area in which the prime contractor is located.) Three copies of the contract and the Small Business, Small Disadvantaged Business and Women-owned Small Business Subcontracting Plan shall be forwarded to the cognizant CAO with a request for supporting contract administration of these clauses in accordance with FAR 42.204(a) and DFARS 242.204(a). The CAO will monitor the prime contractor's small business, small disadvantaged business, and women-owned small business concerns subcontracting programs and accomplish the periodic reviews required by FAR 42.302(a)(55).

(a)(91) When assignments of supporting contract administration are made to a field CAO under the administrative retention provisions of DFARS 242.203(a)(1) for either contracts and orders subject to a Master Solicitation Agreement, or large purchase awards that are not subject to a Master Solicitation Agreement, the following otherwise -optional functions should be delegated:

CANCELLATIONS - Modifications to cancel contract line item numbers (CLINs) not shipped, when requested by the contracting officer.

DIVERSIONS - Modifications effecting diversion when notice from the contracting officer provides shipping instructions.

EXCUSABLE DELAYS (e.g., strikes, floods, etc.) - Modifications to extend delivery date when delinquencies will result because of excusable delays.

NONEXCUSABLE DELAYS - Modifications, to revise delivery time up to 90 days, issued for consideration.

#### 42.205 Designation of the paying office.

(2) All contracts assigned to a Service Plant Cognizance Representative for administration shall designate the disbursing office supporting the contracting office as disbursing office for the contract except for contracts resulting from MIPRs, which shall cite the disbursing office in accordance with DLAR 4115.3, Implementing Procedures for Purchase of Supplies Assigned to DLA Under the DoD Coordinated Procurement Program, paragraph (VI)(A)(13).

#### 42.206 Reassignment of contract administration.

(b) If the contracting officer retains administration of a contract or order and a need subsequently arises to delegate any aspect of contract administration to a CAO, the contract or order shall be assigned for performance of all contract administration functions, except as stated in paragraph 42.204 above.

### SUBPART 42.3 - CONTRACT ADMINISTRATION OFFICE FUNCTIONS

#### 42.302 Contract administration functions.

(b)(2) See 42.202(c)(90).

(b)(7) The authority to negotiate and definitize adjustments to contract prices resulting from exercise of an economic price adjustment clause should be delegated to the contract administration office except in exceptional circumstances. If a decision is made to retain this function in the contracting office, the reason for retention shall be documented.

### SUBPART 42.11 - PRODUCTION SURVEILLANCE AND REPORTING

#### 42.1106 Reporting requirements.

(a) Submission of DD Form 375, Production Progress Report, will be required under the following circumstances, as a minimum:

- (i) Items required to satisfy requisitions bearing UMMIPS priority 01 through 06.
- (ii) Items that have been designated by the DSC Commanders as being in a critical supply position.
- (iii) Items on the DoD, Military Service, or DLA critical list.
- (iv) Items in direct support of the DoD Master Urgency List (MUL) categories.
- (v) Contractors on the Military Services Contractor Experience Lists.
- (vi) When requested by the DoD Project Manager.

#### 42.1190 Contract acceleration/status requests.

Procurement personnel will initiate contract acceleration/status requests to contractors and CAOs as appropriate. However, to facilitate the handling of special -emphasis and high-priority items, Centers may, at their option, establish local procedures which will permit supply personnel to initiate contract acceleration/status requests to cognizant CAOs. Those Centers using this option must assure that local procedures are jointly developed and contain the following controls and provisions [note: subparagraphs (i) through (v), below, do not pertain to commodity business units or similar structures]:

- (i) Strong prohibitions against supply personnel contacting contractors directly.

(ii) Strict controls to preclude identical requests for the same items being sent by supply and procurement personnel to CAOs.

(iii) A procedure whereby information obtained by supply personnel from the cognizant CAO is provided to procurement personnel for updating the active contract file.

(iv) Direct communications between supply personnel and CAOs shall normally be by letter or message. Under the most urgent circumstances (UMMIPS priorities 01 thru 03), telephone requests for acceleration/status are permitted after supply personnel determine that procurement personnel are not working the same item. Telephone requests from supply personnel for contract acceleration will be immediately followed by confirming documentation to cognizant CAOs.

(v) Requests for contract acceleration/status will be made as infrequently as possible and will specify, at a minimum, contract number, contractor, and location. Contract acceleration requests should not take the place of effective, up front acquisition planning. In addition, such requests shall contain sufficient information to convey the urgency of the circumstances and minimum quantities needed to satisfy high-priority requisitions or backorders.

#### SUBPART 42.71 - VOLUNTARY REFUNDS

##### 42.7101 Solicited refunds.

###### (90) Overpricing.

(1) Before any recoupment action is taken, the contractor shall be contacted for any explanation of the basis of its price, and whether a pricing error has occurred. A determination shall then be made as to the existence of overpricing.

(2) If it is determined that overpricing has occurred, the contract should be canceled or a price reduction/voluntary refund requested, as applicable. Voluntary refund requests of \$25,000 or more shall be approved by the chief of the contracting office (CCO). This approval may be delegated at DSCs to one level below the CCO, and if the amount to be requested does not exceed \$50,000, to the chief of the pricing element and to a level no lower than the level above the contracting officer. The Refund requests with supporting rationale should be made in writing to an appropriate contractor official, and should include amounts related to any previous awards by the contracting office for the item for which a voluntary refund is also requested. Awards to other suppliers of the same item should also be reviewed for apparent overpricing, and any appropriate corrective action pursued in accordance with DFARS 242.71 and this subpart. Apparent overpricing on any award made by any other contracting office should be referred thereto for resolution.

(3) In the event efforts to secure a voluntary refund are unsuccessful, the decision concerning further recoupment efforts shall be referred to the approving official cited in (2), above.

(91) Nonconformance. Voluntary refunds for contractor-caused nonconformances discovered after Government acceptance shall be handled in accordance with procedures set forth in 46.407(f)(92) through (95).

##### 42.7102 Disposition of voluntary refunds.

(90) Overpricing. The contract shall be modified, canceled, or terminated, or a voluntary or contractual refund request issued, as appropriate. The price recorded in the Contract Technical Data File shall be revised to reflect the price reduction, or the recoupment, and advice of corrective actions initiated or completed shall be forwarded to the Center Comptroller with a request for immediate revision of the standard price, if applicable, exceed \$50,000. This section does not apply to voluntary refunds for contractor-caused nonconformances.